IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05/03/2004

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THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION NO.18965 OF 1996

D. Muralidharan,
S/o. Dhanapalan .. Petitioner

-Vs-

1. The Zonal Manager,
L.I.C of India,
L.I.C. Building,
Anna Salai, Madras 2.

2. The Regional Manager (Marketing),
L.I.C of India,
L.I.C. Building, Anna Salai,
Madras 2.

3. The Branch Manager,
L.I.C. of India,
Coonoor, Nilgiris District. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorari as stated therein.

For Petitioner : Mr.S. Thiruvenkataswamy

For Respondent-2 : Mr.V. Ramasubramanian

:O R D E R

Heard Mr. Thiruvenkataswamy for the petitioner and Mr. Ramasubramanian for the respondents.

2. Petitioner is currently employed under L.I.C of India. He has prayed for issuing writ of certiorari for quashing the communication dated 19.8.1996 issued by the third respondent as confirmed in Ref.No. Mktg/FP2827 dated 25.10.96 by the second respondent.

3.The facts giving rise to the present writ petition are as follows :-

Petitioner joined the respondent Corporation as a Development Officer on 1.3.1986. Subsequently, he was promoted as Assistant Branch Manager with effect from 29.4.1994. On becoming Assistant Manager, the petitioner became eligible to apply loan for a four wheeler vehicle and applied for the same, which was sanctioned by letter dated 29.7.19 94. As per the terms of the loan, a Maruthi Car bearing Registration No.TN-45 D 0642 remained under hypothecation with the Corporation and the Corporation deducted instalment relating to loan amount from the salary of the petitioner. While the matter stood thus, the petitioner was reverted from the post of Assistant Manager to the post of Development Officer. Such order of reversion was on the basis of verification and calculation regarding the lapse ratio of the business introduced. The petitioner, however, did not challenge such order of reversion and continued to function as Development Officer. Subsequently, under the impugned communication dated 19.8.96, the petitioner was informed to surrender the car immediately. The petitioner immediately sent a reply.

However, by letter dated 25.10.96, request of the petitioner was turned down and he was asked to surrender the car immediately. Thereafter, the present writ petition has been filed.

4. From the copy of the certificate of registration available on record, it is apparent that the petitioner was the registered owner of the vehicle in question. However, the vehicle was hypothecated in favour of L.I.C of India, obviously because the loan amount for purchase of the car was sanctioned by L.I.C.

5. In the aforesaid background, it is the contention of the petitioner that merely because the petitioner was subsequently reverted to his former post of Development Officer, there is no jurisdiction or legal authority to direct the petitioner to surrender the car.

6. In the counter affidavit filed in Court today, it has been indicated by the respondents that the petitioner had been promoted to the post of Asst. Branch Manager on a mistaken impression that the lapse ratio in respect of policies secured by the petitioner was 14.60%, whereas the actual lapse ratio for the relevant period was 15.52%. It has been indicated that a person would be eligible for promotion as Assistant Branch Manager only if the policy lapse ratio was less than 15% and thus, the petitioner was ineligible to be promoted at that time. Subsequently, he was reverted and the order of reversion having not been challenged has become final. It has been contended that since the order of reversion has not been challenged, the consequential order relating to surrender of vehicle cannot be challenged. It is also indicated that the petitioner was not eligible to get allowance for a four wheeler in his capacity as Development Officer, and therefore, the impugned letter was valid.

7. Even assuming that the order of promotion in favour of the petitioner was on the basis of some mistaken assumption relating to policy lapse ratio, it is not the case of the Corporation that there was any misrepresentation on the side of the petitioner. Mistake, if any, was on the

part of the L.I.C. and they had given promotion to the petitioner. At that time, the petitioner was eligible to avail the loan and the loan was accordingly sanctioned and the car was purchased. In the absence of any misrepresentation on the part of the petitioner, merely because he was reverted subsequently, there cannot be any justification for the L.I.C. to demand that the car should be returned. In spite of the order of reversion, the petitioner continued as the legal owner of the car and the right of the Corporation was to recover the loan amount. Such recovery is being effected by deducting instalment from the monthly salary of the petitioner.

8. Learned counsel for the respondents has submitted that since the petitioner had been reverted and the order of reversion had not been challenged, he is not entitled to the perquisites applicable to an Assistant Branch Manager. The question in the present case is as to whether LIC was justified in demanding return of vehicle. Since the petitioner has become the legal owner of the car, he could not be asked to return the vehicle. It is not the case of the L.I.C that the vehicle had been allotted to the petitioner in his capacity as Assistant Branch Manager. The only contention is that the petitioner became eligible to obtain loan in his capacity as Assistant Branch Manager. Since the loan had already been sanctioned and availed, there is no question of withdrawing the vehicle at a subsequent stage.

9. Learned counsel for the respondents has also contended that at any rate, the petitioner should have paid interest on the loan amount and could not have availed interest free loan. From the correspondence available on record, I do not find any material indicating that at any time the LIC had demanded the petitioner to pay interest on the loan amount. In the absence of any such demand and in the absence of any contract to that effect, learned counsel for the Respondents is not justified in making such a submission.

10. For the aforesaid reasons, the letter dated 19.8.1996 directing the petitioner to surrender the vehicle is quashed. However, it is made clear that after the impugned letter was issued, the entitlement of the petitioner regarding conveyance allowance would be dependent upon the relevant Rules and Regulations. The writ petition is accordingly disposed of. No costs.

Index : Yes
Internet : Yes

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To

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